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## LICENSING AND APPEALS COMMITTEE

Minutes of a Meeting held on Wednesday 26 March 2014 in the Council Chamber, Town Hall, Matlock at 6.00pm

### PRESENT

Councillor Jacque Bevan - In the Chair

Councillors Tom Donnelly, Steve Flitter, Cate Hunt, Angus Jenkins, Tony Millward, Jean Monks, Mike Ratcliffe, Judith Twigg, Carol Walker.

Eileen Tierney (Licensing and Administration Manager), Caroline Hill (Licensing Officer) and Jackie Cullen (Committee Assistant).

1 member of the public.

### 398/13 – MINUTES

It was moved by Councillor Carol Walker, seconded by Councillor Tony Millward and

### RESOLVED

(unanimously)

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 13 November 2013 be approved as a correct record.

The Minutes were signed by the Chairman.

### 399/13 – APPLICATION FOR EXEMPTIONS FROM TAXI LICENSING POLICY REQUIREMENTS – WHEELS TO WINGS CHAUFFEURING SERVICE, LONGFORD

The Committee was asked to consider an application for two exemptions from the Council's Taxi Licensing Policy Requirements: one in respect of displaying the Council's door signage and licence plates on 5 vehicles proposed to be used as private hire vehicles (PHVs) by the same operator; and the second to exempt 4 of the same vehicles from the Council's current minimum age requirement when first licensed as PHVs.

Section 29 of the Council's Policy provides that the Council may in exceptional circumstances dispense with or vary any of the conditions set out in the Policy.

The request had been received from David Naylor, proprietor of proposed business *Wheels to Wings Chauffeuring Service* to be based in Longford. Mr Naylor aimed to provide a prestigious, executive and discreet door-to-door chauffeuring service, mainly to

businesses.

To operate this type of business Mr Naylor would be required to licence his vehicles as private hire vehicles and comply with the Council's vehicle specification and licensing conditions outlined in the current Taxi Licensing Policy. He would also need to be licensed as a private hire operator. Anyone who was going to drive the vehicles would also need to be licensed by the District Council as a driver.

The current Policy requires the Council's signage to be displayed on both front doors of the vehicle, with any business advertising being restricted to the rear doors. The licence plate must be fixed to the rear of the vehicle and a licence disc had to be displayed inside, on the top left-hand corner of the windscreen. These requirements were introduced with the implementation of the Council's Hackney Carriage/Private Hire Licensing Policy in April 2009.

In accordance with Council requirements, Mr Naylor had provided correspondence detailing the type of business and vehicles he wished to licence; this was attached as Appendix 1 to the report. Mr Naylor had also provided a portfolio of more detailed vehicle information and references from local businesses in support of his application.

Applications requesting any deviation from the Council's Policy were considered on a case-by-case basis. There had been 7 similar requests since the introduction of the current Policy in 2009. The proprietors of these businesses were required to carry the licence plates in the boot of the vehicle and to provide evidence of bookings to the Licensing Officer, at regular intervals, to ensure that the exemption was still applicable.

It was moved by Councillor Tony Millward, seconded by Councillor Judith Twigg and

**RESOLVED**  
(Unanimously)

- 1) That the application from Mr Naylor of *Wheels to Wings* Chauffeuring Service, for an exemption from the current Taxi Licensing Policy requirements to display the Council's signage and licence plates on a fleet of 5 executive vehicles to be licensed as private hire vehicles be approved
- 2) That, subject to compliance with all other requirements of the District Council's vehicle specification, the application from Mr Naylor for an exemption from the current minimum age requirement in respect of the vehicle, BMW 750i, registration number D11 DHN, which is to be licensed as a Private Hire Vehicle to operate from within the Derbyshire Dales be approved
- 3) That the Licensing Manager be delegated authority to approve 3 applications for vehicles to be purchased by Mr Naylor to operate as Private Hire Vehicles from within the Derbyshire Dales, provided that the vehicles meet all other requirements of the District Council's specification.

#### **400/13 – SCRAP METAL DEALERS ACT 2013 – IMPLEMENTATION PROGRESS**

The Committee considered an update on the implementation of the Scrap Metal Dealers Act in Derbyshire Dales. It also considered approval of revisions to the scheme of officer

delegation, and the schedule of licensing application fees, approved at the November 2013 meeting of this Committee.

A detailed report outlining the changes to be introduced with the implementation of the Scrap Metal Dealers Act 2013 was submitted to the November 2013 meeting of this Committee. Members approved the application fees for licences, which had been set by officers under delegated authority, to allow applications to be accepted and processed from 1<sup>st</sup> October 2013.

Members also approved a draft policy and guidance document, which outlined how the District Council would deal with applications for new licences and variations, and how it would tackle enforcement issues.

The main provisions of the Act were listed in the report.

Licensing authorities were given powers to set their own fees for licence applications on a service cost-recovery basis only. The fees for both types of applications made to this Council were set under delegated authority at the end of September 2013. The fee for a Site Licence was currently £270 and for a Collector's Licence, £150. Fees for renewals, variations and changes to the details of licences were not set, and were proposed for Members' consideration as follows:

<b>Application</b>	<b>Fee</b>
Site Licence – renewal after 3 years	£270
Collector's Licence – renewal after 3 years	£150
Variation from site licence to collector's licence	£25
Variation from collector's licence to site licence	£120
Add an additional site to site licence	£80
Change of details on site or collector's licence including change of Site Manager details	£25
Replacement licence	£25

All Licences would be issued for a period of three years, but could be varied and revoked by the licensing authority with a right of appeal to the Magistrates' Court.

At the November meeting of this Committee Members approved a Scheme of Delegation of the various powers contained within the Act. The revised scheme of delegation for approval was set out in the report.

It was moved by Councillor Carol Walker, seconded by Councillor Cate Hunt and

- RESOLVED**  
(Unanimously)
- 1) That the revised Scheme of Delegation in respect of the Scrap Metal Dealers Act 2013 detailed in paragraph 1.10 of the report, be approved.
  - 2) That the amended schedule of fees for Scrap Metal Dealer Licences detailed in paragraph 1.3 of the report, be approved.

#### **401/13 – LICENSING ACT 2003 – PROGRESS REPORT ON LICENSING CHANGES**

This report provided the Committee with details of recent and impending changes in respect of alcohol, entertainment and late night refreshment licensing.

Included in the report was the latest position on the Government's proposal to abolish the 10-year renewal requirement for personal licences, the proposed exemptions to the licensing of community film exhibitions and other promised amendments to the Licensing Act 2003 contained in the Deregulation Bill 2013-14 which was currently making its passage through Parliament. Also included were details of the Government's very recent proposal to relax licensing hours for the England matches in this year's FIFA World Cup competition.

It was suggested that the Licensing Manager, in consultation with the Head of Regulatory Services and the Chairman of this Committee, should prepare a response to those consultations which required a response outside the normal committee reporting timescale. Where time permitted, Members' views would be sought before the final draft response was considered by the Chairman, and in any event all Members of the Committee would be informed of any responses made on behalf of the Licensing Authority.

### **Personal Licences – Proposals to abolish renewals**

The Licensing Act 2003 (implemented from February 2005) introduced the current system of personal licences which required that all alcohol sales be made or authorised by a personal licence holder. Without exception, the Designated Premises Supervisor (DPS) in relation to licensed premises must hold a personal licence.

Currently, personal licences were granted for 10 years, where after an application to renew was required. The personal licence holder was required to renew the licence with the issuing authority, irrespective of where he/she resided at the date of renewal.

In its Alcohol Strategy the Government proposed to reform the system for personal licences. In September 2013, the Government launched a consultation seeking views on how alcohol licensing would work if personal licences were not renewable once granted, or if the requirement to have a personal licence was abolished; the consultation proposals were listed in the report.

The Institute of Licensing submitted a response to the consultation on behalf of its membership, attached as Appendix 1 to the report.

The Government's response to the consultation response was now available; from this it was evident that the proposal to scrap the personal licenses had been abandoned. The Licensing and Administration Manager would update the Committee when the Government's response had been examined in more detail.

### **Community and Incidental Films – Proposed Exemptions from Licensing**

The Government carried out a consultation last year on whether there should be some film exhibitions that should be exempt from the requirements of the Licensing Act 2003; mainly in community premises. The two main deregulatory options were set out in the report.

The District Council responded to the consultation, expressing concerns at the reduced level of official contact this might mean for some premises that were not necessarily subject to any other regulatory health and safety type inspections or local authority contact, particularly village halls.

The Government's response had since been published and was attached as Appendix 2 to

the report.

In summary, the Government intended to amend the 2003 Act to introduce a further, but limited, licensing exemption for film exhibition in community premises that it considered would benefit film societies, film clubs, and other local social groups for whom licensing costs and the associated bureaucracy was a barrier to exhibitions of film within their community. In effect this was option 2 of the consultation proposal.

The Government intended to amend the statutory guidance issued to licensing authorities under section 182 of the 2003 Licensing Act to include further guidance on the exhibition of films in community premises, subject to Parliament passing the Deregulation Bill.

### **The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014 Banning the sale of alcohol below the cost of duty plus VAT**

The Government's response to the Alcohol Strategy consultation published on 17 July 2013 set out its intention to ban the sale of alcohol below the cost of duty plus VAT. The ban would prevent businesses from selling alcohol at heavily discounted prices and aimed to reduce excessive alcohol consumption and its associated impact on alcohol related crime and health harms.

At the time of writing the report the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014 had been laid before Parliament under section 197(4) of the Licensing Act 2003, and had not yet been made a UK Statutory Instrument. The Order was subject to parliamentary approval. If obtained, the legislation would come into force on 6 April 2014.

If parliamentary approval were obtained the Mandatory Condition to be attached to all relevant premises licences and club premises conditions would require that:

*A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.*

Paragraph 2 of the Schedule explained how the permitted price was to be calculated and provided a definition of 'relevant person'.

Full details could be found on the Gov.UK website using the following link:

<https://www.gov.uk/government/publications/banning-the-sale-of-alcohol-below-the-cost-of-duty-plus-vat>

### **Consultation on proposal to relax licensing hours to serve alcohol during the FIFA World Cup 2014**

On 13 March 2014, the Home Office launched a consultation on whether there should be a national relaxation of licensing laws to sell alcohol during the FIFA World Cup in June 2014. Responses to the consultation were required by 26 March (date of this meeting). The Licensing Manager was consulting with the Head of Regulatory Services and the Police Authority, so a response could be prepared for consideration by the Chair of this Committee, to comply with the response deadline.

It was moved by Councillor Carol Walker, seconded by Councillor Cate Hunt and

**RESOLVED** 1. That the Institute of Licensing response to the Government

- (Unanimously)           consultation in respect of personal licences be noted.
2. That the Government's response to the consultation response in respect of Community Film Exhibitions be noted.
  3. That the action taken in respect of the consultation on the proposed relaxation to licensing requirements during the FIFA World Cup tournament in June 2014, be confirmed.
  4. That authority be delegated to the Licensing Manager to prepare responses to significant licensing consultation documents in consultation with the Head of Regulatory Services and the Chairman of the Licensing and Appeals Committee, where the response deadlines fall outside the committee cycle.

### **402/13 – LICENSING ACT 2003 – CONSULTATION ON LOCALLY-SET FEES**

This report sought the Committee's views on the Government's consultation on the proposed move from centrally-set to locally-set fees under the Licensing Act 2003. Responses to the consultation were invited before 10 April 2014.

The Licensing Act 2003 (the Act) regulated the sale of alcohol, the provision of late night refreshment and the provision of regulated entertainment across England and Wales. The provisions of the Act were mainly administered by local authorities acting in their capacity as licensing authorities and this role was funded through licence fees.

The current fee levels were set by Central Government in 2005 and applied nationally. These fees had not been revised since, except for the introduction of new fees for new processes – eg minor variation applications.

In 2012, the enactment of the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003, introducing a power for the Home Secretary to prescribe in regulations that in future fee levels should be set by individual licensing authorities to enable them to recover their licensing costs.

On 13 February 2014, the Home Office launched a consultation on the proposed move from centrally-set to locally-set fees under the Licensing Act 2003. The 47 page document was attached as Appendix 1 to the report.

The document could be accessed on the Gov.Uk website using the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/279706/locally set fees consultation v4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279706/locally_set_fees_consultation_v4.pdf)

The aims of the consultation were listed in the report, and furthermore the Home Office was also seeking licensing authority estimates of their costs in performing each of the licensing functions under the 2003 Act. The District Council's officers were currently collecting information to complete the survey for response before the deadline.

The deadline for responses to the Home Office consultation on locally set fees is **10<sup>th</sup> April 2014**. One consideration put forward at the meeting was that different rates might be charged according to different demands on the Council; for example those institutions requiring regular visits and advice should perhaps incur a greater fee than small rural premises with limited capacity and requiring minimal enforcement. Members were

requested to submit their views and suggestions before 10<sup>th</sup> April 2014. The Institute of Licensing and Environmental Health would also respond.

It was moved by Councillor Tony Millward, seconded by Councillor Judith Twigg and

**RESOLVED**

(Unanimously)

That because of the complex nature of the consultation, and taking into account the views expressed at the meeting, the Committee should rely on Officers' expertise to produce a response to the Government's consultation on the proposed move from centrally-set to locally-set fees for applications made under the Licensing Act 2003.

**403/13 – HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING POLICY REVIEW – PROGRESS REPORT**

Councillor Judith Twigg left at 7.16pm during discussion of this item.

The Committee considered an update on the review of the Council's Taxi Licensing Policy. The planned review was not a major one and an initial consultation on the current policy had taken place with the Trade only, at this stage.

The report sought approval for one change to be made to the Policy with immediate effect: this was in relation to a 10-year maximum age of licensed vehicles to be approved from 1<sup>st</sup> April 2014, to enable operators and drivers more financial flexibility than they have currently when replacing a licensed vehicle. This proposal is in line with other authorities' age of vehicle policies in the region.

Members were also informed of the need to consider further revisions to the policy which were currently being discussed with the Trade in light of a recent announcement from the Head of the Taxi and PSV Regulation Branch of the Department for Transport.

The current Taxi Licensing Policy had been in operation for over 5 years. At 1<sup>st</sup> April 2009, existing licensed vehicles could continue to be licensed indefinitely, but the new policy would not allow any vehicle older than 3½ years old to be licensed as a taxi or a private hire vehicle for the first time. In addition, any vehicle newly licensed after 1<sup>st</sup> April 2009 could only be re-licensed until it was 7 years old and would then have to be replaced.

During the consultation this proposal had been welcomed by the Trade. It was suggested that this change should be introduced with effect from 1<sup>st</sup> April this year, to allow a number of older vehicles to be replaced as soon as possible, thereby improving the average condition of the overall fleet. Members may wish to consider an 18 month lead-in period to allow drivers until September 2015 to comply with the requirement.

The licensed taxi/phv trade had recently received a letter from James Padden, Head of Taxi and PSV Regulation at the Department for Transport which drew attention to several changes to taxi and private hire vehicle legislation proposed by the Government, as part of the Deregulation Bill, currently on its passage through parliament. Details were included in the report, but in summary Mr Padden had stressed that whilst information gathered by the DfT would help Ministers to make a decision about whether Government intervention was justified, a consultation exercise would be carried out before any regulations would be made.

The Law Commission was due to publish its report and draft Bill at the end of April. The Government would then have a year in which to consider the report and prepare a response. This timescale meant that there would not be time to take forward a dedicated Taxi Bill before the next general election, which is why these changes were being introduced using the Deregulation Bill.

Officers suggested that the draft policy document presented to Members at the November 2013 meeting was reviewed further, taking account of the comments already received from the Trade, and the Government's proposals outlined in this report.

Rather than seek approval of a policy that may require change in less than a year's time, it was suggested that during the next 4 weeks licensing officers continued to meet with the Trade, to discuss both the local and national proposals to ensure that a workable local policy is produced and presented to the next appropriate meeting of this Committee for consideration.

It was moved by Councillor Tony Millward, seconded by Councillor Jean Monks and

**RESOLVED**  
(Unanimously)

- 1) That from 1<sup>st</sup> April 2014, the age limit for vehicles which can be licensed as a taxi or private hire vehicle is revised to allow vehicles up to the age of 10 years old to be licensed before they need to be replaced.
- 2) That subject to 1) above, owners/drivers of existing licensed vehicles which are 9 years old or older at 31<sup>st</sup> March 2014, will have until 31<sup>st</sup> August 2015 to replace them.
- 3) That taking into account the proposed national changes to taxi licensing legislation, a revised draft policy is produced, further consultation is carried out with the trade, and a final report is considered at next appropriate meeting of this Committee.

**MEETING CLOSED 7.20PM**

**CHAIRMAN**